

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

JAMES M. PLASSE

Plaintiff,

vs.

**TYCO ELECTRONICS
CORPORATION,**

Defendant.

Civil Action No. 04-CV-30056-MAP

**TYCO ELECTRONICS CORPORATION'S MOTION
TO DISMISS COMPLAINT**

Defendant Tyco Electronics Corporation ("Tyco Electronics") moves to dismiss Plaintiff's Complaint as a sanction for repeated and willful false deposition testimony, and for fabrication of a document, both of which were intended by Plaintiff James M. Plasse, to conceal and obscure fraudulent representations made to Tyco Electronics at the time of Mr. Plasse's application for employment. Mr. Plasse's false testimony was flagrant, repeated numerous times over two days of deposition, and separated by ten days of careful consideration. Mr. Plasse sought to bolster his false testimony with a fraudulent document. Whether the false testimony is considered standing alone, or where compounded by the production of a bogus document, dismissal of the action is warranted.

Mr. Plasse's misrepresentations about his education and false testimony in this litigation do not concern collateral matters but go to the heart of one of Tyco Electronics' defenses: Mr. Plasse's wrongful termination and promissory estoppel claims or damages are barred by the after-acquired evidence of his "resume fraud." Furthermore, where Mr. Plasse's wrongful termination claim is based entirely on unfounded and uncorroborated

assertions by Mr. Plasse, his misrepresentations, and later effort to conceal those misrepresentations, make his dubious claims highly suspect. For these reasons, Tyco Electronics respectfully requests that the Complaint be dismissed as a sanction for litigation misconduct by Mr. Plasse.

In support of this motion, Tyco Electronics submits the accompanying Memorandum in Support of Motion to Dismiss and Exhibits.

REQUEST FOR ORAL ARGUMENT

Pursuant to Local Rule 7.1(D), Tyco Electronics hereby requests oral argument concerning this Motion.

Respectfully submitted,

TYCO ELECTRONICS CORPORATION,

By its attorneys:

/s/ Jeffrey D. Clements

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CERTIFICATION PURSUANT TO LOCAL RULE 7.1(A)(2)

I, Jeffrey D. Clements, hereby certify that I have conferred with Maurice Cahillane, counsel for Plaintiff James Plasse, in a good faith effort to narrow or resolve the issue.

/s/ Jeffrey D. Clements

CERTIFICATE OF SERVICE

I, Jeffrey D. Clements, hereby certify that a copy of the foregoing document was served electronically and by first class mail to counsel of record for the plaintiff on January 24, 2005.

/s/ Jeffrey D. Clements
